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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,153	09/15/2003	Benjamin J. Feldman	12008-32USC7	2148
23552	7590	04/11/2008		
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			EXAMINER NOGUEROLA, ALEXANDER STEPHAN	
			ART UNIT 1795	PAPER NUMBER
			MAIL DATE 04/11/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10663153	9/15/03	FELDMAN ET AL.	12008-32USC7

MERCHANT & GOULD PC  
P.O. BOX 2903  
MINNEAPOLIS, MN 55402-0903

**EXAMINER**

ALEX NOGUEROLA

ART UNIT	PAPER
1795	20080411

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner for Patents**

***Requirement for Information***

1. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

2. In response to this requirement, please provide a copy of each of the following items of art referred to in *Roche's Final Invalidity Contentions of '745 and '551 Patents as of 6/18/07* and *Bayer's Invalidity Contentions of '745 and '551 Patents as of 6/18/07*. Applicant's Information Disclosure Statement of January 30, 2008 lists *Roche's Final Invalidity Contentions of '745 and '551 Patents as of 6/18/07* and *Bayer's Invalidity Contentions of '745 and '551 Patents as of 6/18/07*. Both of these documents allege that specific test strips made, offered for sale, sold, or distributed by several different companies anticipate or render obvious one or more claims in U.S. Patent

6,592,745 B1. The test strips alleged to be prior art against the '745 patent are the Glucometer Elite® Diabetes Care System (including glucose meter and test strips), the ACCU-CHEK® Comfort Curve test strips (used with ACCU-CHEK® Advantage or ACCU-CHEK® Complete glucose meters), ACCU-CHEK® Advantage (including test strips and glucose meters), CSL Strips (Cambridge Science Limited), and Glucometer Dex test strips. See paragraphs II.B.12-14 and II.B.30, on pages 10-12 and 21, in *Roche's Final Invalidity Contentions of '745 and '551 Patents as of 6/18/07* and

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paragraphs I.B.1, I.B.2, and II.A.2, on pages 5 and 12-13, of *Bayer's Invalidity Contentions of '745 and '551 Patents as of 6/18/07*. US Patent 6,592,745 B1 claims a method of using a test strip that is structurally similar to the test strip claimed in the instant application. Moreover, the test strip embodiment shown by Figures 21A-21C of US Patent 6,592,745 B1 is identical to that shown by Figures 21A-21C in the instant application, which reads on at least claim 16 of the instant application and, at least in part, on claim 1 of US Patent 6,592,745 B1. Thus, there is a question as to whether any of the allegedly publicly available test strips listed above also read on the inventions claimed in the instant application. The Examiner requests product descriptions, illustrations, specifications, or other documents that Applicant has for the test strips listed above that would be relevant in evaluating the patentability of the sensor strip claimed in the instant application.

3. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

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4. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

5. This requirement is subject to the provisions of 37 CFR 1.134, 1.135 and 1.136 and has a shortened statutory period of 2 months. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALEX NOGUEROLA whose telephone number is (571) 272-1343. The examiner can normally be reached on M-F 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, NAM NGUYEN can be reached on (571) 272-1342. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Alex Noguera/  
Primary Examiner, Art Unit 1795  
April 10, 2008

  
**GREGORY MILLS**  
**QUALITY ASSURANCE SPECIALIST**